



## Legislative Bulletin.....April 21, 2005

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Amendments to the Energy Policy Act—H.R. 6

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### Amendments to the Energy Policy Act—H.R. 6

**NOTE:** The structured rule (H.Res. 219) for H.R. 6 makes the following amendments in order. Note that all summaries are based off of what each amendment sponsor provided to the Rules Committee—yet, where appropriate, RSC staff have made edits based on the actual amendment text. All amendments are debatable for 10 minutes, unless otherwise noted.

**1. Barton (Manager’s Amendment) #85. AGREED TO BY VOICE VOTE.** The 23-page amendment makes minor and major revisions to the underlying bill. It removes “suspended ceiling fans” from multiple places it appears in the underlying bill. It strikes the following sections from the bill

- Sec. 206. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes.
- Sec. 244. Increased hydroelectric generation at existing Federal facilities.
- Sec. 245. Shift of project loads to off-peak periods.

It adds a new section in Title III (oil and gas—commerce) called the Natural gas market reform. It strikes “scooters” from qualifying for the \$200 million grant pilot program to acquire alternative fuel, hybrid, or fuel cell vehicles, which in the bill includes the purchase of cars, motorized 2-wheeled bicycles (Segway likely qualifies), scooters, airport ground support and baggage vehicles, and school buses.

It amends and rewrites the aviation fuel conservation and emissions section of title VII. It amends and rewrites the New Idle Reduction Deployment Program in Title VII (authorization level remains what it is in the underlying bill):

In Title VII, it inserts a **new 4-demonstration-site program**, through the advanced vehicle technologies program, for hydrogen fuel cell buses.

*(The amendment summary says some of the following programs are “reinserted” from the 108<sup>th</sup> Congress’s energy conference report:)*

It adds to **Title IX a new “Western Michigan Demonstration Program”** to address the effect of transported ozone and ozone precursors in Southwestern Michigan (no specific

amount is authorized). Also adds a **new Western Hemisphere Energy Cooperation** program “to promote cooperation on energy issues with Western Hemisphere countries” and to the extent possible to work universities for “evaluating new technologies; resolving technical issues; working with those countries in the development of new policies; and training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.” **The new program is authorized at \$66 million over five years.**

**It creates a new Arctic Engineering Research Center for \$18 million (\$3 mil a year)** “to a university located adjacent to the Arctic Energy Office of the Department of Energy” in Fairbanks Alaska to “conduct research on, and develop improved methods. of construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region.”  
**[This appears to be an earmark for the University of Alaska Fairbanks]**

**It creates a new \$61 million Barrow Geophysical Research Facility,** “to support scientific research activities in the Arctic.”

**2. Dingell #59. FAILED 188-243.** The 63-page amendment rewrites the electricity title, including authorizing \$500 million over 10 years per year for electricity reliability. It amends the Public Utility Regulatory Policies Act of 1978 dealing with net metering, smart metering, and time-based metering. It adds a new subtitle entitled “Market Transparency, Enforcement, and Consumer Protection,” prohibiting false filing, round-trip trading, fraudulent or manipulative practices, and requiring criteria for exemptions. The amendment increases the federal criminal and civil penalties under the Federal Power Act, in one instance by increasing an individual fine amount from \$5,000 to \$5 million. *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**It authorizes the court to stop a company from the ability to “participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce** if it finds that such censure, placing of limitations, suspension, or revocation **is in the public interest**” and fits certain circumstances laid out in the amendment (public interest is not defined). It also authorizes **the court to stop an individual from to participate in the transportation of natural gas** in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption...if it finds that such censure, placing of limitations, suspension, or revocation is in the **public interest**” and fits certain circumstances laid out in the amendment (public interest is not defined).

The amendment includes a GAO review of accounting for contracts involved in energy trading. It requires that for each public utility granted the authority by the Commission to sell electric energy at market-based rates, **“the Commission shall review the activities and characteristics of, such utility not less frequently than annually to determine whether such rates are just and reasonable” (just and reasonable are not defined). (20 minutes)**

**3. Markey #25. FAILED 200-231.** Strikes the entire Title XXI , which deals with Arctic Coastal Plain Domestic Energy, and allows oil and gas exploration in the Arctic National Wildlife Refuge. **(30 minutes)** *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**4. Boehlert/Markey/Kirk/Gilchrest/Leach/Shays #44. FAILED 177-254.** Requires automobile manufacturers to increase the fuel economy of automobiles manufactured beginning in model year 2015 to 33 miles per gallon (up from current standards of 25 miles per gallon). Requires that, in doing so, the manufacturers “do not degrade the safety of automobiles” and “maximize the retention of” U.S. manufacturing jobs. Thus, it may limit the automobile maker’s ability to make structural changes to the car (i.e. - make the car lighter, and more fuel efficient, by using different materials and thus be open to the charge of degrading the safety of the car), and may limit the automobile maker’s ability to sub-contract or export work to a foreign company in order to achieve greater efficiency. **(20 minutes)** *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**5. Johnson (CT) #11. AGREED TO 346-85, after being amended by the Rogers amendment below.** Requires the EPA to revise fuel economy test procedures to reflect current driving patterns, such as “higher speed limits, faster acceleration rates, temperature variations, air conditioning use... and other fuel depleting features.” Thus, this would require the EPA to take into account that today’s drivers tend to drive faster and more aggressively, among other things, which reduce the automobile’s fuel economy.

According to the amendment’s sponsor, this only changes "testing procedures" that auto companies use to determine the fuel economy numbers that go on the dealer label, not the CAFE standards. This amendment is supported by the Sierra Club and AAA. *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**6. Rogers (MI)/Kilpatrick #83. AGREED TO 259-172.** Amends Johnson’s (CT) amendment by changing the text of the Johnson amendment as follows:

“The Administrator of the Environmental Protection Agency shall update or ~~revise test procedures, Subpart 4-B Fuel Economy Regulations for 1978 and Later Model 5 Year Automobiles—Test Procedures~~ [the adjustment factors in sections] 600.209-85 and 6 600.209-95, of the Code of Federal Regulations, CFR 7 Part 600 (1995) Fuel Economy Regulations for 1977 and 8 Later Model Year Automobiles to take into consideration 9 higher speed limits, faster acceleration rates, variations in 10 temperature, use of air conditioning, shorter city test cycle 11 lengths, current reference fuels, and the use of other fuel 12 depleting features.”

The Amendment’s sponsor states that the Johnson amendment as written would require automobile manufacturers to perform separate tests for labeling and CAFE standards, increasing the burden on the automobile industry. Instead of adjusting the “testing procedures”, Rep. Rogers’ amendment would allow the “adjustment factors” to be modified (instead of testing procedures) to make the fuel economy label more accurate. The amendment’s sponsor states that this amendment is supported by “the entire automobile

industry.” This amendment is supported by the Alliance of Automobile manufacturers and Toyota Motor North America.

**7. Bishop (NY)/Markey #62. FAILED 170-259.** Democrat alternative bill. Summary points:

- Includes energy antifraud provisions aimed at, according to the bill sponsor, “fight[ing] ENRON-style corruption and imposing civil and criminal penalties.”
- Prohibits federal or state permits or leases for new oil or gas drilling in or under the Great Lakes.
- Includes the Dingell substitute for the electricity title, which would provide mandatory reliability standards and create a new federal structure (ERO) subject to FERC enforcement.
- Establishes a Small Business Commercialization Assistance program to provide assistance for small companies and start-ups for commercialization of energy efficient and renewable energy technologies developed with the support of DOE. **Authorizes \$1 billion through FY2010 and “such sums” thereafter through FY2026.**
- Eliminates the repeal in the underlying bill of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.), which limits mergers among utility companies.
- Establishes an Emerging Technology Trust Fund to provide a guaranteed source of funds for R&D to develop emerging technologies for more efficient and renewable energy sources. Appropriates to the fund amounts equivalent to the taxes received in the Treasury by reasons related to the prohibition on the use of last-in, first-out inventory accounting for oil and gas (up to \$5 billion a year).
- Calls on the President to suspend deliveries to the Strategic Petroleum Reserve, halting deliveries until the price drops below \$40 a barrel, and requires the President to return to the principle of reviewing the potential impact on prices and the economy when making any future decisions on acquiring petroleum.
- Directs the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets. Directs the FTC to establish an electronic information system to facilitate price transparency and participation in gasoline markets under its jurisdiction.
- Limits the Energy Star designation to the top 25% of products.
- Establishes a program for grants to states that achieve at least 90% compliance for new buildings that meet the energy performance level of the most recent building energy codes.

- Amends the ceiling fan language in the bill by stipulating that state standards would be preempted only when federal standards are promulgated.
- Extends the Renewable Energy Production Tax Credit for five years.
- Provides tax incentives for highly efficient residential furnaces, air conditioners, and water heaters. Provides a 10% investment tax credit for high-efficiency systems that generate both heat and power (CHP). Provides a tax deduction for expenses needed to reduce energy use of new and existing commercial buildings.
- Requires an independent assessment of innovative financing techniques to facilitate construction of new renewable energy and energy efficiency facilities that might not otherwise be built.

**(30 minutes)**

**8. Slaughter #4. AGREED TO BY VOICE VOTE.** Requires any escalator being installed in federal buildings to be an intermittent escalator (i.e. one that stops when no one is on it). In addition, federal agencies would also be encouraged to incorporate other escalator energy conservation measures.

**9. Waxman #56. FAILED 166-262.** Requires the Administration to propose to Congress "voluntary, regulatory, and other actions" to reduce oil demand in the U.S. by 1 million barrels per day from projected levels by 2013. Specifically states that this amendment would not mandate a change in average fuel economy standards. *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**10. Oberstar #72. AGREED TO BY VOICE VOTE.** Authorizes \$20 million in FY2006 for the Administrator of General Services Administration to proceed with the Sun Wall Design Project, the winning entry in a national design competition sponsored jointly by the Department of Energy and the National Renewable Energy Laboratory, to install a photovoltaic solar electric system on the headquarters building of the Department of Energy.

**11. Abercrombie #40. AGREED TO BY VOICE VOTE.** Establishes a three-year, \$8-million Sugar Cane Ethanol Pilot Program in Hawaii to study the production of ethanol from cane sugar.

**12. Kaptur #19. FAILED 186-239.** Provides the Secretary of Energy the authority to include alternative fuels in the Strategic Petroleum Reserve, including ethanol and biodiesel, and rename the reserve the "Strategic Fuels Reserve." *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**13. Conaway # 82. AGREED TO BY VOICE VOTE.** Provides that the Department of Energy, in consultation with the Department of Labor and the Department of Interior, will evaluate and report to Congress on both the short-term and longer-term availability of skilled

workers to meet the energy security of the United States, addressing the availability of skilled labor at both entry level and at more senior levels in the oil, gas, and mineral industries.

**14. Solis #3. FAILED 182-248.** Strikes all of Title III, Subtitle D, the Refinery Revitalization Act. *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**15. Udall #34. FAILED 204-225.** Strikes section 631, eliminating the proposed \$10 million payment for three fiscal years to domestic uranium producers "to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies." *The Chairman of the Energy and Commerce Committee opposes this amendment.*

**16. Ford #32. AGREED TO BY VOICE VOTE.** Authorizes \$3.0 billion over ten years for the Environmental Protection Agency to establish a program to encourage the domestic production of hybrid and advanced diesel vehicles. The program would include grants to domestic automobile manufacturers to encourage production of hybrid and advanced diesel vehicles and provide consumer alternatives in the form of discounts, rebates, etc. to purchase hybrid and advanced diesel vehicles.

**17. Kaptur/Kucinich #20. AGREED TO BY VOICE VOTE.** Amends section 722, the Pilot Program for the Department of Energy's Clean Cities Program, to increase the number of project grants to state governments, local governments, and metropolitan transportation authorities from 15 to 20. Also reduces the amount of total Federal assistance under the pilot program to any one applicant from \$20 million to \$15 million. (This is the airport baggage vehicles and scooters section of the bill.)

**18. Millender-McDonald #9. AGREED TO BY VOICE VOTE.** Establishes a Diesel Truck Retrofit and Fleet Modernization Program to be administered by the Secretary of Energy and the Administrator of the Environmental Protection Agency. Competitive grants would be awarded to public agencies and/or state and local governments and entities to implement fleet modernization programs including installation of retrofit technologies for diesel trucks. Authorizations would be as follows:

- \$20,000,000 for fiscal year 2005;
- \$35,000,000 for fiscal year 2006;
- \$45,000,000 for fiscal year 2007; and
- Such sums as are necessary for each of fiscal years 2008 and 2009.

**19. Blumenauer #2. AGREED TO BY VOICE VOTE.** Authorizes \$6.2 million to establish, within the Department of Transportation, a Conserve by Bicycling pilot program, which would oversee up to 10 pilot projects geographically dispersed across the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. In addition, the projects would encourage partnerships between stakeholders from transportation, law enforcement, education, public health, environment, and energy fields. Requires a report to Congress within two years of implementation.

**20. Jackson-Lee #66. AGREED TO BY VOICE VOTE.** Authorizes \$245 million over five years for integrated bioenergy research and development programs. Of this money, \$25 million over five years would be earmarked for bioenergy training and education targeted to minority and socially disadvantaged farmers and ranchers.

**21. T. Davis (VA)/Waxman #47. AGREED TO BY VOICE VOTE.** Strikes section 978 of the bill (Improved Coordination and Management of Civilian Science and Technology Programs), which would create a new Office of Science at the Department of Energy and two new Senate-confirmed assistant secretaries (one for the new Office of Science and one to coordinate nuclear energy issues). The underlying bill would increase the total number of Senate-confirmed assistant secretaries in the Department to eight, and this amendment would keep the number at six.

**22. Walsh #84. AGREED TO BY VOICE VOTE.** Establishes a new National Priority Project designation to be awarded annually by the President (on the recommendation of the Secretary) to organizations that have “advanced the field of renewable energy technology and contributed to North American energy independence.” The designation will be awarded in two categories: 1) renewable energy generation projects; and 2) energy efficient and renewable energy building projects, based on certain defined criteria. Award winners will receive a medal with the inscription “National Priority Project.”

**23. Engel #46. AGREED TO 239-190.** Makes producers of "approved renewable fuels" eligible for grants to build production facilities for renewable fuels. In the underlying bill, only merchant producers of cellulosic biomass and waste derived from ethanol are eligible for grants. Thus, this amendment would expand the grant availability.

*The Chairman of the Resources Committee opposes this amendment “because it limits the use of woody biomass by prohibiting the use of trees that are "old-growth timber" as defined by the Clinton Administration. The amendment basically codifies a forestry definition from the Clinton Administration, which would have detrimental and precedent setting effects. That definition is unscientific and impossible to determine. In essence, this amendment would likely prevent private and government forest owners from participating in the grant program. In addition, codifying a political definition of old growth could have long-term repercussions.”*

**24. Israel #60. AGREED TO 302-128.** Requires the Comptroller General of the United States to conduct a study on the impact of the consolidation of gasoline wholesalers, producers, importers, and refiners on the gasoline retail market (pricing of retail gasoline, local small business ownership and other market impacts).

**25. Kucinich #55. AGREED TO 259-171.** Initiates a National Academy of Sciences study on the feasibility of mustard seed as a feedstock for biodiesel.

**26. Holt #67. AGREED TO BY VOICE VOTE.** Requires the Secretary of Energy, within 2 years of enactment, to report to Congress on the potential fuel savings from information technology systems that help businesses and consumers to plan their travel and avoid delays.

These systems may include, for example, web-based real time transit information systems, congestion information systems, car-pool information systems, parking information systems, freight route management, and traffic management systems.

**27. Grijalva #52. FAILED 203-227.** Strikes section 2005 in its entirety.

SEC. 2005. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.-For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than-

- (1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;
- (2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;
- (3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and
- (4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(b) LIMITATION.-The Secretary may place limitations on the suspension of royalty relief granted based on market price.

*This amendment is opposed by the Chairman of the Energy and Commerce Committee.*

**28. Inslee #63. AGREED TO BY VOICE VOTE.** Prohibits the Interior Secretary from imposing rent and other charges to any wind energy development project on public lands that, in the aggregate, exceed 50 percent of the maximum amount of rent that could be charged with respect to that project under the terms of Bureau of Land Management Instruction Memorandum No. 2003-020, dated October 16, 2002. This prohibition is terminated after 10 years or if there exists at least 10,000 megawatts of electricity generating capacity from non-hydropower renewable energy resources on public lands. The amendment states that it shall not affect any State share of rent and other charges with respect to any wind energy development project on public lands.

**29. Hastings (FL) #69. FAILED 185-243.** Adds a new title to the bill (XXVII – Environmental Justice), expands the definition of environmental justice, and directs *each federal agency* to establish a new office of environmental justice. It also reestablishes the interagency Federal Working Group on Environmental Justice, and requires that Executive Order 12898 (issued by President Clinton issued in February, 1994, relating to Federal actions to address environmental justice in minority populations and low-income populations) remain in force until changed by law (preempting future Presidents ability to rescind it by Executive Order). It also requires that federal agencies fund “community technology centers,” defined as programs to provide at least 10 hours of “open access” a week for people, especially those in “low-income urban and rural communities” to provide technical assistance to communities

experiencing environmental hazards. *This amendment is opposed by the Chairman of the Energy and Commerce Committee.*

**30. Castle #16. FAILED 194-237.** Strikes section 320 of title III “Sec. 320. Liquefaction or gasification natural gas terminals.”

Under the Natural Gas Act of 1938 (15 U.S.C. 717), Congress gave the Federal Energy Regulatory Commission (FERC) authority over “the business of transporting and selling natural gas... in interstate and foreign commerce...” FERC is thus the lead agency for the National Environmental Planning Act (NEPA) procedures related to the importation and transportation for “natural gas.” FERC has argued that its jurisdiction over natural gas, includes *liquefied* natural gas (LNG) and that FERC has authority over liquid natural gas facilities and should function as the lead agency coordinating siting onshore LNG terminals.

Recently, there have been disputes, including lawsuits, which assert FERC should *not* have lead jurisdiction over the siting of liquid natural gas facilities. The authors of the underlying text of H.R. 6 argue that section 320 restates and clarifies that the Natural Gas Act provisions do apply to siting of LNG terminals and that it is imperative that due to interstate and foreign commerce and safety and security issues FERC maintain authority as the lead agency for the siting of LNGs.

Section 320 amends 15 U.S.C. 717 to include liquefied or gasification national gas terminals under the authority of FERC for NEPA purposes. In other words, section 320 establishes that FERC is the lead agency for siting LNG terminals. The provision also details FERC’s jurisdiction as lead agency, timelines for decisions, and requirements that FERC must work with “state and local safety considerations.”

The amendment sponsor argues that, “A federal agency should not have the power to determine if a locality should have a LNG terminal, where the terminal should be built, and when construction should take place. Communities must be paramount to the Federal Energy Regulatory Commission.”

Rep. Markey offered the same amendment (#26) in the Energy and Commerce Committee mark-up on April 13, 2005, where it was defeated 18-35.

*The Chairman of the Energy and Commerce Committee opposes this amendment.*

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